



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

133108

REPLY TO THE ATTENTION OF:

FEB 20 1997

C-29A

BY CERTIFIED MAIL

Philip J. Weaver, Jr.  
Smith, Marshall and Weaver  
500 National City-East Sixth Building  
1965 E. Sixth St.  
Cleveland OH 44114

Re: Master Metals, Inc. Superfund Site  
Samsel Services

Dear Mr. Weaver:

I am writing to respond to your January 24, 1997, letter regarding your client Samsel Service's ("SS") involvement at the Master Metals, Inc. ("MMI") Superfund Site (the "Site"). First, your letter seems to implicate RCRA's exemption for recycled materials. This exemption does not apply to CERCLA actions such as the instant one, and in any event the MMI facility as it was managed did not qualify for this exemption. Second, in response to your lack of information regarding the MMI facility's daily operations, the MMI facility was run in a fashion that led to the contamination of both the facility property and surrounding areas, through poor handling of recycled and smelted materials, through excessive air emissions from both the smelting process and the open storage of lead-bearing waste at the facility and through various other MMI failures to discharge its statutory environmental responsibilities. Third, regarding your client, SS' status as a PRP was and will be evaluated by U.S. EPA solely on the basis of whether it sent CERCLA hazardous waste -- as defined in CERCLA Section 101(14) -- to the MMI Site. It is apparent from your correspondence that SS generated CERCLA hazardous substances to the Site, substances identical to those released by MMI's operations. Therefore, in the eyes of U.S. EPA, SS remains a PRP at this Site. Pursuant to CERCLA Section 107, PRPs are jointly and severally liable for all site-related response costs.

U.S. EPA will consider additional comments regarding the draft Administrative Order over the next week and will send out a final Order for signature to the PRPs, including SS, as soon as possible after that. Should SS decide not to participate in the final Order, such is its decision to make. As an informational matter, such a refusal may have the effect of subjecting SS to a later cost recovery or contribution action by U.S. EPA or by other PRPs, pursuant to Sections 107 and 113 of CERCLA, respectively. If you have any questions regarding the factual history of the MMI facility or any other

matter, you may contact me at your convenience at (312) 886-6827. For cost allocation issues you may find it more useful to discuss your client's situation with Mr. Dennis Reis, of Quarles & Brady; Mr. Reis is counsel for Johnson Controls and serves as the head of the PRP Steering Committee. He may be contacted at (414) 277-5523.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kris P. Vezner', with a long horizontal flourish extending to the right.

Kris P. Vezner  
Assistant Regional Counsel

cc: Dennis Reis, Quarles & Brady

bcc: Thomas Alcamo, SR-6J  
Kris Vezner, C-29A  
Denise Williams, SM-5J